

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

CRL.A.No. 593 of 2001()

CC.611/1999 of JUDL. MAGISTRATE OF FIRST CLASS-V, KOZHIKODE
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APPELLANT: COMPLAINANT

**M.P.SHAHUL HAMEED, S/O. NOORUDEEN,
AGED 28 YEARS, M.P. MANZIL, PO. VAIDHYARANGADI, VIA.
RAMANATTUKARA, KOZHIKODE DISTRICT.**

BY ADV. SRI.K.VINODKUMAR

RESPONDENTS: ACCUSED/ STATE

- 1. M.M.BHASKARAN, S/O.KUTTICHAN,
HOUSE NO. 6/291, MELAMANGALATH,
PO. MUMMINI PARAMBA, VIA., KONDOTTY,
MALAPPURAM DISTRICT.**
- 2. STATE OF KERALA, REP.BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

**THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.R.UDAYABHANU, J

Crl.A.No.593 of 2001

Dated this the 7th day of August, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(i) of Crl.P.C. as the complainant was absent. It is submitted that the lapse was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 7.9.2007.

The appeal is allowed.

**K.R.UDAYABHANU,
JUDGE**

csl